

Excerpt From
Unapproved Minutes of June 13, 2006 Council Meeting

3. **RTC 06-203 Public Hearing – FY 2006/2007 Budget and Resource Allocation Plan, Establishment of Appropriation Limitation and Proposed Fee Increases**

Grace Kim, Finance Manager-Budget, presented the staff report. She stated the purpose of the hearing is to allow citizens an opportunity to be heard on issues regarding the upcoming budget and fee schedule. She clarified that action is not required by Council; however, Council may choose to initiate action.

Mary Bradley, Director of Finance, stated that she and the Director of Public Safety prepared a response to a Councilmember's inquiry regarding permit fees. The response is on the dais for Council's review.

Councilmember Spitaleri expressed concerns about the significant increase in permit fees for adult entertainment businesses, which he identified as having a thousand percent increase. He confirmed that an extensive background check is made only at the initial application and asked if the cost for the extensive background check is included in the fees for each year. Dayton Pang, Public Safety Captain, stated the background investigation fee is included only with the initial application.

Councilmember Spitaleri inquired about the personnel costs charged in the permit fees such as Public Safety Administration costs and internal services. He asked why department-wide internal services are a part of this type of permit and what is the purpose of charging for those services. Director Bradley explained the City includes within the full cost of every service, all the required materials for that service. She stated the internal service charges for the Public Safety Department include items such as vehicles, radios, and computers which are applied as a percentage against every activity.

Councilmember Spitaleri asked staff to explain program ISE and Director Bradley stated that was a program for Internal Services charges and added that staff also includes a department-wide internal services charge in the permit fee. She stated staff puts as much of the actual cost for the program directly into the program, and the department-wide internal service is that which supports the entire department.

Councilmember Spitaleri confirmed with staff that the increase is the same for all adult businesses. He asked staff if they view this extensive increase in fees to all the adult businesses as justified and if so, has the Public Safety Department incurred the same increases in costs. Director Bradley explained that during fiscal year 2005/2006 the Finance Department, in conjunction with Public Safety, undertook a complete analysis of all the costs in the Public Safety Department. As a result, they discovered that the fees had not been

covering full costs for quite some time; therefore, staff brought all the fees up to actual costs in fiscal year 2005/2006, and in fiscal year 2006/2007 staff is proposing that the fees increase by inflation.

Councilmember Spitaleri stated he is concerned that each of the establishments are of different size, dissimilar amount of employees, diverse types of adult businesses, and inquired as to why the fees would be the same when the background checks would vary. He asked if nightclub fees are assessed the same across the board for that type of industry, and Director Bradley stated nightclubs and/or bars are not required to pay permit fees, other than a business license fee. Council could consider a permit fee for this industry. Councilmember Spitaleri asked if there were any type of industry that is assessed the same fee increase, because of the type of business they represent. Director Bradley stated there are standardized permit fees, such as fire operation and hazardous materials permits. Staff takes the average efforts, rather than time and materials, as it would be more costly to administer the fees in that manner.

Councilmember Moylan stated he is aware that a Council decision will not be made this evening, but had further questions. He confirmed that the two Public Safety undercover operations on this industry were discretionary, and asked staff if there is any documentation that identified this industry as generating crime. Captain Pang stated if there are any violation complaints, Public Safety will do an undercover investigation; however, the two undercover operations included in the permit fees are compliance checks, such as safety and code violations. Councilmember Moylan asked about a specific establishment and had it generated a lot of complaints and caused a lot of additional investigations. Captain Pang confirmed there have been some undercover operations at that particular business.

City Manager Chan stated that the City does not establish fees based on an individual business and cautioned Council to avoid targeting one specific business. She stated that Council policy decisions are centered around whether the City should have a certain fee and if so, how should it be calculated or established.

Councilmember Moylan confirmed that the City does not charge school districts for Neighborhood Resource Officers or residents for fire trucks sent to a burning home. He continued to state that under California state law a fee may not be set as a punitive measure; therefore, since Public Safety fees are borne across the entire community, singling out one business area and charging them for services the City chooses to run, are in his opinion, punitive charges. Councilmember Moylan stated he expects a better justification from staff to support the proposed increases in adult entertainment fees and charges when Council votes on this issue. Director Bradley stated these fees are for the cost of issuing a permit similar to the taxi cab permit where the City does extensive background checks in the interest of the safety of its citizens. This is identified as due diligence on the part of the City. She stated the permit fees only reflect the cost of the due diligence and do not include any further service provided at the establishment. Councilmember Moylan stated he can understand an initial permit fee as with taxi drivers, but that this is an ongoing annual fee. He stated

if there were evidence that this class of business was generating a huge amount of annual police activity, then he could justify the annual fee. His concern is that the City is choosing to do the additional work and then bill the business.

City Manager Chan stated that normal police services are covered under the General Fund expenses and Director Bradley stated the two annual undercover investigations that are recovered by the permit fee are part of the City's due diligence to the community. She clarified that the taxi cab drivers are background checked twice a year. Councilmember Moylan stated he understands the due diligence aspect, but is still concerned that the two annual additional undercover investigations appear to single out this class of businesses and cause an unnecessary burden on the businesses.

Councilmember Spitaleri thanked staff and stated he expressed his concerns in order to have a good understanding of the justification behind such a significant increase. He mentioned that he had received a letter from a business owner and he needed to be able to fully understand and justify the increase to himself, in order to properly respond.

David Kahn, City Attorney, stated that the application and licensing process is required by City ordinance which regulates adult entertainment establishments. He stated it is different than normal Public Safety activities under Municipal Ordinance No. 9.40.060, which was part of a fairly extensive adult entertainment ordinance passed by Council several years ago. He stated that the process is part of the ordinance and required for the establishment to be licensed.

Councilmember Chu stated that he wished to highlight in the report that revenues are exceeding operating expenses.

Councilmember Chu stated that the addendum to the annual fee and charges for fiscal year 2006/2007 needs a minor correction to the tree ordinance. He stated that in March 2006, Council revised the tree ordinance to reflect a measurement of the tree diameter from 4 feet to 4 ½ feet from the floor to be in compliance with National standard for Arborists.

Mayor Swegles opened the Public Hearing at 8:29 p.m.

Barbara Bullis, Jim Evans, and Raymond Pole spoke in favor of the Council funding Case Management for Seniors.

Dave Whittum spoke about his support (and on behalf of nearby residents) for maintenance on Murphy Avenue. He also stated he is in favor of a play set at Murphy Park.

Eleanor Hansen stated her concerns about retaining the City's cable contract after 2006/2007 due to the House of Representatives enacting a rewrite of the Nation's Telecommunication laws. This change will establish a National Video Franchise, which will allow phone companies to bypass local governments in offering paid television service. Councilmember Hamilton stated that Council is

following this measure closely, and agreed that if it were to pass, it would not be good for the City. She encouraged Ms. Hansen to write to her representatives stating her opinion.

Mike Johnson, Executive Director of the Downtown Association, Lara Bliesnes, Anne Dugan, Marcus Belardes, Leigh Odum, Sean O'Keeffe, and Darren Bouton, spoke in favor of the continuation of the street cleaning of Murphy Avenue. They requested the cleaning be restored to at least the same level of consistency given over the past six months. Mr. Johnson stated they would like to move forward with the street cleaning in this year's budget as they have not been able to move forward with the Business Improvement District (BID) or the Parking Improvement District (PID).

Councilmember Hamilton asked Mr. Johnson what he thought would happen if the BID and PID did not move forward. Mr. Johnson stated they are working with the City to determine the best solution for the issue - what needs to be done versus what can realistically happen. He stated the Downtown Merchants are not of the mind set that it is their responsibility to take care of the street cleaning, but at same time they have tried to move forward with processes that best represent a collaborative effort between the City and the Downtown. He stated he does not have a specific answer regarding the BID/PID as he has not received any definitive information.

Mr. Johnson stated there were a number of business and residents that wanted to attend the meeting in support of street cleaning, but were not able to come to the meeting. Mayor Swegles stated he appreciated having a spokesman for this issue and was encouraged by the support from the Downtown Merchants.

Councilmember Chu stated Council also received several emails in support of the street sweeping on Murphy Avenue.

Werner Gans spoke against additional street sweeping in the Downtown area as it is a drain on the City's budget and merchants in other parts of the City are not afforded such privileges. He stated the merchants should help with the cleaning.

No one else wished to speak and Mayor Swegles closed the Public Hearing at 8:48 p.m.

Mayor Swegles confirmed with City Manager Chan that Council is not to take action on this item this evening.